

information, it would be impossible to determine which applicants were eligible for award.

*Respondents (i.e. affected public):* National organizations with expertise in rural housing and community development, including experience

working with rural housing development organizations, community development corporations (CDCs), community housing development organizations (CHDOs), local governments, and Indian tribes.

*Estimated Number of Respondents:* 30.

*Estimated Number of Responses:* 1.

*Frequency of Response:* Annual.

*Average Hours per Response:* 40.

*Total Estimated Burdens Hours:* 1200 hours.

Information collection	Number of respondents	Frequency of response	Responses per annum	Burden hour per response	Annual burden hours	Hourly cost per response	Annual cost
Total .....	30	1	1	40	1200	\$45	\$54,000

**B. Solicitation of Public Comment**

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

**Authority:** Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: December 9, 2015.

**Colette Pollard,**

*Department Reports Management Officer, Office of the Chief Information Officer.*

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**DEPARTMENT OF THE INTERIOR**

**Bureau of Indian Affairs**

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**HEARTH Act Approval of Gila River Indian Community Regulations**

**AGENCY:** Bureau of Indian Affairs, Interior.

**ACTION:** Notice.

**SUMMARY:** On November 20, 2015, the Bureau of Indian Affairs (BIA) approved the Gila River Indian Community leasing regulations under the HEARTH

Act. With this approval, the Tribe is authorized to enter into the following types of leases without BIA approval: Commercial leases and solar resource leases.

**FOR FURTHER INFORMATION CONTACT:** Ms. Sharlene Round Face, Bureau of Indian Affairs, Division of Real Estate Services, MS-4642-MIB, 1849 C Street NW., Washington, DC 20240, at (202) 208-3615.

**SUPPLEMENTARY INFORMATION:**

**I. Summary of the HEARTH Act**

The HEARTH (Helping Expedite and Advance Responsible Tribal Homeownership) Act of 2012 (the Act) makes a voluntary, alternative land leasing process available to Tribes, by amending the Indian Long-Term Leasing Act of 1955, 25 U.S.C. 415. The Act authorizes Tribes to negotiate and enter into agricultural and business leases of Tribal trust lands with a primary term of 25 years, and up to two renewal terms of 25 years each, without the approval of the Secretary of the Interior. The Act also authorizes Tribes to enter into leases for residential, recreational, religious, or educational purposes for a primary term of up to 75 years without the approval of the Secretary. Participating Tribes develop Tribal leasing regulations, including an environmental review process, and then must obtain the Secretary's approval of those regulations prior to entering into leases. The Act requires the Secretary to approve Tribal regulations if the Tribal regulations are consistent with the Department's leasing regulations at 25 CFR part 162 and provide for an environmental review process that meets requirements set forth in the Act. This notice announces that the Secretary, through the Assistant Secretary—Indian Affairs, has approved the Tribal regulations for the Gila River Indian Community.

**II. Federal Preemption of State and Local Taxes**

The Department's regulations governing the surface leasing of trust

and restricted Indian lands specify that, subject to applicable Federal law, permanent improvements on leased land, leasehold or possessory interests, and activities under the lease are not subject to State and local taxation and may be subject to taxation by the Indian Tribe with jurisdiction. *See* 25 CFR 162.017. As explained further in the preamble to the final regulations, the Federal government has a strong interest in promoting economic development, self-determination, and Tribal sovereignty. 77 FR 72440, 77 FR 72447 (December 5, 2012). The principles supporting the Federal preemption of State law in the field of Indian leasing and the taxation of lease-related interests and activities applies with equal force to leases entered into under Tribal leasing regulations approved by the Federal government pursuant to the HEARTH Act.

Section 5 of the Indian Reorganization Act, 25 U.S.C. 465, preempts State and local taxation of permanent improvements on trust land. *Confederated Tribes of the Chehalis Reservation v. Thurston County*, 724 F.3d 1153, 1157 (9th Cir. 2013) (citing *Mescalero Apache Tribe v. Jones*, 411 U.S. 145 (1973)). Similarly, section 465 preempts state taxation of rent payments by a lessee for leased trust lands, because "tax on the payment of rent is indistinguishable from an impermissible tax on the land." *See Seminole Tribe of Florida v. Stranburg*, No. 14-14524, \*13-\*17, n.8 (11th Cir. 2015). In addition, as explained in the preamble to the revised leasing regulations at 25 CFR part 162, Federal courts have applied a balancing test to determine whether State and local taxation of non-Indians on the reservation is preempted. *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136, 143 (1980). The *Bracker* balancing test, which is conducted against a backdrop of "traditional notions of Indian self-government," requires a particularized examination of the relevant State, Federal, and Tribal interests. We hereby adopt the *Bracker* analysis from the preamble to the surface leasing

regulations, 77 FR 72447, as supplemented by the analysis below.

The strong Federal and Tribal interests against State and local taxation of improvements, leaseholds, and activities on land leased under the Department's leasing regulations apply equally to improvements, leaseholds, and activities on land leased pursuant to Tribal leasing regulations approved under the HEARTH Act. Congress's overarching intent was to "allow Tribes to exercise greater control over their own land, support self-determination, and eliminate bureaucratic delays that stand in the way of homeownership and economic development in Tribal communities." 158 Cong. Rec. H. 2682 (May 15, 2012). The HEARTH Act was intended to afford Tribes "flexibility to adapt lease terms to suit [their] business and cultural needs" and to "enable [Tribes] to approve leases quickly and efficiently." *Id.* at 5–6.

Assessment of State and local taxes would obstruct these express Federal policies supporting Tribal economic development and self-determination, and also threaten substantial Tribal interests in effective Tribal government, economic self-sufficiency, and territorial autonomy. See *Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024, 2043 (2014) (Sotomayor, J., concurring) (determining that "[a] key goal of the Federal Government is to render Tribes more self-sufficient, and better positioned to fund their own sovereign functions, rather than relying on Federal funding"). The additional costs of State and local taxation have a chilling effect on potential lessees, as well as on a Tribe that, as a result, might refrain from exercising its own sovereign right to impose a Tribal tax to support its infrastructure needs. See *id.* at 2043–44 (finding that State and local taxes greatly discourage Tribes from raising tax revenue from the same sources because the imposition of double taxation would impede Tribal economic growth).

Just like BIA's surface leasing regulations, Tribal regulations under the HEARTH Act pervasively cover all aspects of leasing. See Guidance for the Approval of Tribal Leasing Regulations under the HEARTH Act, NPM–TRUS–29 (effective Jan. 16, 2013) (providing guidance on Federal review process to ensure consistency of proposed Tribal regulations with Part 162 regulations and listing required Tribal regulatory provisions). Furthermore, the Federal government remains involved in the Tribal land leasing process by approving the Tribal leasing regulations in the first instance and providing technical assistance, upon request by a Tribe, for

the development of an environmental review process. The Secretary also retains authority to take any necessary actions to remedy violations of a lease or of the Tribal regulations, including terminating the lease or rescinding approval of the Tribal regulations and reassuming lease approval responsibilities. Moreover, the Secretary continues to review, approve, and monitor individual Indian land leases and other types of leases not covered under the Tribal regulations according to the Part 162 regulations.

Accordingly, the Federal and Tribal interests weigh heavily in favor of preemption of State and local taxes on lease-related activities and interests, regardless of whether the lease is governed by Tribal leasing regulations or Part 162. Improvements, activities, and leasehold or possessory interests may be subject to taxation by the Gila River Indian Community.

Dated: November 20, 2015.

**Kevin K. Washburn,**

*Assistant Secretary—Indian Affairs.*

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**BILLING CODE 4337–15–P**

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

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#### **Renewal of Information Collection for: OMB Control Number—1093–0005— Payments in Lieu of Taxes (PILT) Act, Statement of Federal Lands Payments, (43 CFR 44)**

**AGENCY:** Office of the Secretary, Office of Budget, Department of the Interior.

**ACTION:** Notice and request for comments.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995, the Office of Budget, Office of the Secretary, and Department of the Interior (DOI), announces the proposed extension of a public information collection required by the Payments in Lieu of Taxes (PILT) Act and seeks public comments on the provisions thereof. In compliance with the Paperwork Reduction Act of 1995, the Office of Budget has submitted a request for renewal of approval of this information collection to the Office of Management and Budget (OMB), and requests public comments on this submission.

**DATES:** OMB has up to 60 days to approve or disapprove the information collection request, but may respond after 30 days; therefore, public

comments should be submitted to OMB by January 14, 2016, in order to be assured of consideration.

**ADDRESSES:** Send your written comments by facsimile (202) 395–5806 or email (*OIRA\_Submission@omb.eop.gov*) to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of the Interior Desk Officer (1093–0005). Also, please send a copy of your comments to the U.S. Department of the Interior, Office of the Secretary, Office of Budget, Attn. Dionna Kiernan, 1849 C St. NW., MS 7413 MIB, Washington, DC 20240. Send any faxed comments to (202) 219–2849, Attn. Dionna Kiernan. Comments may also be emailed to *dionna\_kiernan@ios.doi.gov*.

#### **FOR FURTHER INFORMATION CONTACT:**

Requests for additional information or copies of the information collection instrument should be directed to the U.S. Department of the Interior, Office of the Secretary, Office of Budget, Attn. Dionna Kiernan, 1849 C St. NW., MS 7413 MIB, Washington, DC 20240. Requests for additional information may also be emailed to *dionna\_kiernan@ios.doi.gov* or faxed to (202) 219–2849. You may also review the information collection request online at <http://www.reginfo.gov/public/do/PRAMain>.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Abstract**

Public Law 97–258 (31 U.S.C. 6901–6907), as amended, the Payments in Lieu of Taxes (PILT) Act, was designed by Congress to help local governments recover some of the expenses they incur in providing services on public lands. These local governments receive funds under various Federal land payment programs such as the National Forest Revenue Act, the Mineral Lands Leasing Act, and the Taylor Grazing Act. PILT payments supplement the payments local governments receive under these other programs. The FY 2016 budget proposes a one-year extension of the current PILT program, maintaining the existing formula for calculating payments to counties. That proposal is currently pending before Congress. This renewal authority is being done in anticipation of reauthorization by Congress.

The PILT Act requires the Governor of each State to furnish the Department of the Interior with a listing of payments disbursed to local governments by the States on behalf of the Federal Government under 12 statutes described in Section 6903 of 31 U.S.C. The Department of the Interior uses the amounts reported by the States to